

# HOUSE BILL No. 1387

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-21.

**Synopsis:** Local government public safety bargaining. Requires a unit with a population of 5,000 or more to meet and confer with the representative of the unit's employees concerning pay issues and conditions of employment. Provides that employees may not engage in a strike. Provides that an agreement between an employer and an employee organization may not require a unit to engage in deficit financing.

**Effective:** July 1, 2005.

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**Frizzell**

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January 13, 2005, read first time and referred to Committee on Local Government.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1387

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-8-21 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]:

4 **Chapter 21. Meet and Confer for Public Safety Employees**

5 **Sec. 1. As used in this chapter, "employee" means a full-time**  
6 **employee of a police or fire department. However, the term does**  
7 **not include an employee in an upper level policymaking position.**

8 **Sec. 2. As used in this chapter, "employee organization" means**  
9 **an organization:**

10 (1) **that includes employees as members; and**

11 (2) **whose primary purpose is to represent the members of the**  
12 **organization on issues concerning grievances, wages, rate of**  
13 **pay, hours of employment, or conditions of employment.**

14 **Sec. 3. As used in this chapter, "employer" means a unit.**

15 **Sec. 4. As used in this chapter, "recognized representative"**  
16 **means an employee organization elected under section 7 of this**  
17 **chapter.**

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1       **Sec. 5. (a) Except as provided in section 13 of this chapter, this**  
 2 **chapter does not apply to an employer with a population of less**  
 3 **than five thousand (5,000).**

4       **(b) This chapter does not apply to an employer that has adopted**  
 5 **by:**

- 6           (1) ordinance;
- 7           (2) resolution;
- 8           (3) charter;
- 9           (4) amendment; or
- 10          (5) executive order;

11 **provisions and procedures that permit an employee to form, join,**  
 12 **or assist an employee organization to bargain collectively.**

13       **(c) This chapter may not be construed to annul, modify, or limit**  
 14 **a:**

- 15           (1) collective bargaining agreement; or
- 16           (2) memorandum of understanding;

17 **entered into between an employer and a recognized representative**  
 18 **before September 1, 2005.**

19       **Sec. 6. (a) All employees have the right to:**

- 20           (1) meet and freely assemble to discuss their interests as
- 21           employees; and
- 22           (2) form, join, and assist an employee organization.

23       **(b) The rights guaranteed under subsection (a) include the right**  
 24 **to:**

- 25           (1) solicit membership;
- 26           (2) join an employee organization to present the view of the
- 27           employee; and
- 28           (3) have dues deducted from employee wages and submitted
- 29           to the recognized representative.

30       **Sec. 7. (a) An employee organization is the recognized**  
 31 **representative of the employees of an employer if:**

- 32           (1) before September 1, 2005, the employee organization was
- 33           recognized by the employer as the sole representative of the
- 34           employer's employees; or
- 35           (2) after August 31, 2005, the employee organization is elected
- 36           to be the sole recognized representative under subsection (c).

37       **(b) After August 31, 2005, an employer shall conduct an election**  
 38 **to determine a recognized representative if thirty percent (30%) of**  
 39 **the employees of the employer sign a petition requesting such an**  
 40 **election. The election shall be conducted at least thirty (30) but not**  
 41 **more than sixty (60) days after the employer receives the petition.**

42       **(c) An employee organization becomes the sole recognized**

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representative of the employees of the employer if it receives more than fifty percent (50%) of the votes cast in an election under subsection (b).

**Sec. 8.** This chapter is not intended to circumscribe or modify the existing right of an employer to:

- (1) direct the work of the employer's employees;
- (2) hire, promote, demote, transfer, assign, and retain employees in positions;
- (3) suspend, discharge, or otherwise discipline employees for just cause;
- (4) maintain the efficiency of governmental operations;
- (5) relieve employees from duties because of lack of work or for other legitimate reasons; or
- (6) take actions that may be necessary to carry out the mission of the employer in emergencies.

**Sec. 9.** Employers may not do the following:

- (1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this chapter.
- (2) Dominate, interfere with, or assist in the formation or administration of an employee organization, or contribute financial or other support to the employee organization. However, an employer may permit employees to meet and confer and represent the interests of bargaining during working hours without loss of time or pay.
- (3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.
- (4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, an affidavit, or a petition or has given information or testified under this chapter.
- (5) Refuse to meet and confer in good faith with a recognized representative.

**Sec. 10. (a)** An employee organization or the recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the employee organization or recognized representative intends to exercise its rights under this chapter.

**(b)** Except as provided by section 11 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues

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and proposals regarding wages, hours of employment, and other conditions and terms of employment with the:

- (1) employee organization; or
- (2) recognized representative.

(c) If an agreement is reached between the parties under subsection (b), the parties shall execute a document that includes the terms of the agreement. Upon request of either party, the agreement shall provide procedures for the settlement of a question arising under the agreement.

Sec. 11. (a) An employer is not required to meet and confer with an employee organization under this chapter unless the employee organization has notified the employer in writing before September 1, 2007, that the employee organization elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), after August 31, 2007, an employer may elect to meet and confer and enter into an agreement under section 10 of this chapter even if the employer did not receive a written notice from an employee organization before September 1, 2007.

(c) Notwithstanding any provision of this chapter, an employer may elect to terminate its duty to meet and confer under this chapter if:

- (1) after meeting and conferring with an employee organization under section 10 of this chapter, the employer and the employee organization are unable to reach a written agreement under this chapter; and
- (2) at least sixty percent (60%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer under this chapter and written notice of the action of the legislative body is given to the employee organization.

Sec. 12. (a) As used in this section, "deficit financing" means expenditures that exceed the money legally available to an employer in any budget year.

(b) An employer may not enter into an agreement under section 10 of this chapter that will place the employer in a position of deficit financing. An agreement is voidable to the extent that an employer must engage in deficit financing to comply with the contract.

Sec. 13. (a) This section applies to employees of an employer regardless of population.

(b) An employee, an employee organization, or a recognized

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1 representative may not participate in a strike against an employer.

2 (c) An employee engaging in a strike is subject to discharge by  
3 the employer as provided in IC 36-8-3-4.

4 (d) A recognized representative that engages in or sanctions a  
5 strike loses the right to represent the employees for one (1) year  
6 from the date of the action.

7 (e) An employer may not pay an employee for days the  
8 employee is engaged in a strike.

9 Sec. 14. The term of any written agreement entered into under  
10 this chapter may not exceed forty-eight (48) months.

11 SECTION 2. [EFFECTIVE JULY 1, 2005] (a) This act does not:

12 (1) apply to or abrogate a collective bargaining agreement or  
13 memorandum of understanding; or

14 (2) preclude arbitration on a provision in a collective  
15 bargaining agreement or memorandum of understanding;  
16 in effect on August 31, 2005.

17 (b) This SECTION expires July 1, 2006.

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